

### **REMARKS**

This Amendment is filed in response to the Office Action dated January 7, 2005. Applicant first notes with appreciation the Examiner's thorough examination of the application. In response to the Office Action, Applicant has canceled claims 1-10, 12-22, 24, 25, 28-32, and 34, amended Claims 11, 23, 26, 27, and 33, and added new Claims 35-47. Following these amendments, the application now includes Claims 11, 23, 26, 27, 33, and 35-47, with Claims 11, 23, 33, 36, and 43 being independent. Applicant respectfully submits that the pending claims are patentable and request reconsideration in light of the remarks below.

#### **I. Restriction Requirement**

Applicant hereby confirms the restriction requirement imposed in the application with traverse. Applicant has canceled non-elected Claims 3-9, 12, 15-21, 24, 29-31, and 34.

#### **II. Objections to the Claims**

The Examiner raised several objections to the form of the claims. Applicant has either addressed these objections by amending the claims or rendered them moot by cancellation of claims. Applicant respectfully submits that the claims as amended are now in proper form.

#### **III. The Claims Are Patentable**

On page 5, the Office Action indicates that Claims 11, 23, and 33 include allowable subject matter and would be allowed if rewritten in independent form. Applicant has placed these claims in independent form, and as such independent Claims 11, 23, and 33, as well as the claims that depend therefrom, should now be allowable.

In light of the favorable indication as to Claims 11, 23, and 33, Applicant also drafted new independent Claims 36 and 43. These claims are similar to Claims 11, 23, and 33 in that they all recite use of sensor comprising a light emitter and detector. Applicant respectfully submits that Claims 36 and 43, as well as the claims that depend therefrom, are patentable for the same reasons as Claims 11, 23, and 33.

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On page 3, the Office Action rejected Claims 1, 2, 10, 13, 14, 22, 25-28, and 32. All of these claims have been canceled, except for Claims 26 and 27, which we rewritten to depend from Claim 33. As such, the rejection of these claims is now moot.

### CONCLUSION

In view of the amended claims, added claims, and the remarks presented above, it is respectfully submitted that all of the present claims of the application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

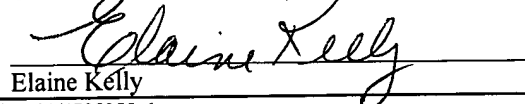


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#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 7, 2005

  
Elaine Kelly

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